

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over by US Patent Application No. US 2002/0172542 A1 (Nadel) in view of Japanese Patent No. JP 409098833 A (Inoue et al.) and

The following examination is based on the English translation provided by the Advanced Industrial Property Network (AIPN) of the Japanese Patent Office, which is available at http://dossier.ipdl.inpit.go.jp/text_trans.html. the English-translated Japanese Patent No. JP 409098833 A is referred as (Inoue et al.) for the examination detailed below.

Regarding claim 1, Nadel discloses an illuminatable lipstick lighting assembly 10 (Figures 1 and 2) comprising:

- a hollow cylindrical container body 18 receiving a light source device 26'- the combination including elements 26, 30 and 32 -, and further including a cap 16 detachably attachable to the hollow cylindrical container body 18 (Figures 1 and 2, Para. 0023); the light source 26 emitting light to a light transmitting stick 20 (Figures 1 and 2, Para. 0023).

Art Unit: 2885

However, Nadel does not specifically teach the following structural elements claimed by the applicant.

- hollow cylindrical container body 18 including a spiral groove in its inner circumferential face;
- a hollow cylindrical cover including a longitudinal slit formed in a portion formed with the spiral groove;
- a holder formed with protrusion extending through the longitudinal slit, and engaging with the spiral groove;
- the holder being provided in the cover, and making it relatively movable in vertical direction.

On the other hand, Inoue et al. discloses a cosmetic stick assembly (Figures 1-5) comprising:

- hollow cylindrical container body 18 including a spiral groove in its inner circumferential face (Inoue et al., Figures 1-5, claim 1);
- a hollow cylindrical cover including a longitudinal slit formed in a portion formed with the spiral groove (Inoue et al., Figures 1-5, claim 1);
- a holder formed with protrusion extending through the longitudinal slit, and engaging with the spiral groove (Inoue et al., Figures 1-5, claim 1);
- the holder being provided in the cover, and making it relatively movable in vertical direction (Inoue et al., Figures 1-5, claim 1).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the stick container of Inoue et al. by providing the structural

Art Unit: 2885

elements detailed above, and as taught by Inoue et al. for the benefits of cost effective manufacturing with reduction of parts. Further the above discussed modification facilitates use and operation of the device.

Regarding claim 3, Nadel in view of Inoue et al. discloses illuminatable lipstick lighting assembly further including the light source device including a light source 26, a controller 32 – a switch -: and a battery 30 (Nadel, Figures 1 and 2, Para. 0024).

Regarding claim 2, neither Nadel nor Inoue et al. specifically teaches the container body and the cover being made of an opaque material.

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the cosmetic stick assembly of Nadel in view of Inoue et al. by providing container body and the cover made of opaque material, since it would have been an obvious matter of material choice. The applicant has not expressed any technical or operational criticality for using opaque martial for the components identified above. It appears that the claimed invention would perform equally well with opaque cover and the container body well known in the art.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rousseau (US Patent No.: 3,717,759), Hwang (US Patent No.: 4,888,667), Wong (US Patent No.: 6,682,202 B2) and Schaak (US Patent No.: 6,866,403 B1)

Art Unit: 2885

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 8:30 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jong-Suk (James) Lee can be reached on 571 272 7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10/17/2008

/Hargobind S. Sawhney/
Primary Examiner; Art Unit 2885